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BROWN, RUEBEN M	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

ADVISORY ACTION

Response to Arguments

1. Applicant's arguments filed 8/26/08 have been fully considered but they are not persuasive. Applicant argues on page 2 of the response "that all technical problems that may inherently cause a delay in the reception of the requested linearly scheduled programs (from the headend to the use's terminal equipment) are invisible to the end user". Examiner respectfully disagrees. Applicant comments appears to be directed to the known problem of latency, i.e., general transmission delays.

However, in order for applicant's statement to be accurate, there would never have been an instance in which a user selected or tuned to a linearly scheduled program and the reception of the instant program was delayed due to failures either in the network or even at the broadcaster itself. Such a statement cannot possibly be valid. While examiner does generally agree that users of modern broadcast TV, CATV and satellite TV expect to always receive a program on a channel to which they have tuned, without any delay, this done not mean that delays in reception never happen on those networks. Therefore, the advantage of pre-storing a lead segment to certain programs, as taught by Garfinkle provides a clear benefit to linearly scheduled programming systems.

For instance, suppose the movie Harry Potter is scheduled to be broadcast Sunday at 7pm on ABC, HBO, TBN or any other channel that broadcasts linearly scheduled programs. The operators of the system would have readily recognized that millions of viewers would want to watch the movie and might be upset if when tuning to the movie there is technical difficulties that causes the movie to not be received at the scheduled time. Therefore, just in case there is a glitch in the system either at the broadcast transmission center, or anywhere in the network that causes such a delay, one possible solution would be to pre-cache the beginning portion of the movie at certain users receiver system (only those that have the technology).

Thus, if there is a technical difficulty in the system serious enough to cause a delay in reception of that movie, those users that have the technology, as disclosed in Garfinkle would be able to begin viewing the movie on their TV set, at the previously scheduled time.

On page 3, applicant argues that the motivation to combine Proehl with Garfinkle is not valid because such a combination would require that all programs on the particular channel be pre-cached at the receiver. Examiner respectfully disagrees. Garfinkle only discusses that a few movies are pre-cached. Therefore the amount of movies and time duration pre-cached would be a function of the amount of memory available at the receiver, and the associated expenses incurred by the user and/or the TV operator.

Garfinkle does not teach buffering all channels, and so neither would a combination with Proehl require such a limitation. As long as the combination of & Proehl would pre-cache at least one program on a user terminal equipment, the claim would be met.

Again on page 4, applicant goes into an analysis of the combination that deals with trade-offs of buffering a led for each channel. The rejection of record is not directed to such a requirement. Finally on page 5, applicant discusses the supposed incompatibility of the system of Garfinkle with Proehl, stating that viewers might be confused. Examiner respectfully disagrees. Just as in Garfinkle, as long as the viewer is informed that the program includes such technology, there would no confusion. As for whether linearly scheduled programs are generally kept separate from VOD type programs, such a decision is merely a business decision, which does not preclude the combination.

Finally as to the discussion of the Pause, etc, i.e., trick play features sometimes found in VOD system similar to Garfinkle. Linearly scheduled program system generally would not include an upstream communication to process trick play commands. However, these trick play features may be operated solely with respect to the receiver system. In other words the receiver does not know if the received program is a requested VOD or linearly scheduled program, as long as there is memory available in the receiver to buffer enough programming, in order to provide the trick play, for a single program, there is no engineering impediment to the combination.

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Or:
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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Reuben M. Brown whose telephone number is (571) 272-7290. The examiner can normally be reached on M-F (9:00-6:00), First Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Kelley can be reached on (571) 272-7331. The fax phone numbers for the organization where this application or proceeding is assigned is (571) 273-8300 for regular communications and After Final communications.

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/Chris Kelley/
Supervisory Patent Examiner, Art Unit 2623